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THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NICHOLAS KIS, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

COGNISM, INC.,

Defendant.

Case No. 4:22-cv-05322-JST

PLAINTIFF'S RULE 7-3(d)(1)
OBJECTION TO NEW EVIDENCE
SUBMITTED WITH REPLY

Plaintiff Nicholas Kis hereby objects under Local Civil Rule 7-3(d)(1) to new evidence Defendant Cognism submitted with its reply in support of its motion to dismiss. Specifically, Plaintiff objects to the following evidence: (1) the so-called "Corrected" Declaration of James Isilay, filed on Feb. 17, 2023 (Dkt. No. 45-1); and (2) the Supplemental Declaration of James Isilay, filed on Feb. 17, 2023 (Dkt. No. 46-1).

Plaintiff objects on the ground that the "Corrected" and Supplemental Declarations attempt to retract and contradict admissions Mr. Isilay made in his original Declaration, filed on Dec. 12, 2022 (Dkt. No. 24-1), without explanation or justification. For example, in his original

Declaration, Mr. Isilay, the CEO of Cognism, declared under penalty of perjury that “information in the Cognism platform can be accessed . . . through the Kaspr plug-in.” Dkt. No. 24-1, at ¶31. In his “Corrected” Declaration, Mr. Isilay attempts to retract his admission that the Kaspr plug-in provides access to information in Cognism’s platform. *See* Dkt. No. 45-1, at ¶31. Likewise, his Supplemental Declaration contradicts his original Declaration, now claiming that “[u]sers of Kaspr cannot access the Cognism platform.” Dkt. No. 46-1, at ¶4.

Plaintiff also objects on the ground that Mr. Isilay’s Supplemental Declaration appears to be inconsistent with his prior public statements. In the Supplemental Declaration, Mr. Isilay claims that “Kaspr is not owned or Operated by [Cognism].” Dkt. No. 46-1, ¶2. But in a press release dated April 27, 2022, which is publicly available on Cognism’s website, Cognism “announced the acquisition of Kaspr, a Paris-based sales prospecting provider.” Ex. 1. In the press release, the following statements were attributed to Mr. Isilay: (1) “This acquisition further cements Cognim’s position as a leader in GDPR complaint contact data for EMEA,” (2) “We’re looking forward to Kaspr becoming a part of Cognism.” *Id.*

As explained in Plaintiff’s motion for leave to file a sur-reply, filed concurrently with this Objection, Mr. Isilay’s retractions and contradictions appear designed to support an argument Cognism raises for the first time in its reply.

Dated: February 22, 2023

Respectfully Submitted,

By: /s/ Brittany Resch

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CERTIFICATE OF SERVICE

I, Brittany Resch, hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record via the ECF system.

DATED this 22nd day of February, 2023.

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